

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

RYAN STEVEN PENDERGRAFT,)	
)	
Petitioner,)	
)	
v.)	CIVIL ACTION NO. 04-PWG-2552-NE
)	
MARTHA JORDAN, Warden,)	
)	
Respondents.)	

FINAL JUDGMENT

On February 1, 2005 the magistrate judge's findings and recommendation was entered and the parties were allowed therein fifteen (15) days in which to file objections to the recommendation made by the magistrate judge. On February 15, 2005 petitioner filed objections to the magistrate judge's findings and recommendation.

After careful consideration of the record in this case, the magistrate judge's findings and recommendation and the petitioner's objections thereto, the court hereby **ADOPTS** the report of the magistrate judge. The court further **ACCEPTS** the recommendation of the magistrate judge and it is, therefore, **ORDERED** that:

- (1) petitioner's objections are **OVERRULED**;
- (2) the petition is **DISMISSED** as a second or successive petition over which this court has no jurisdiction.

Alternatively, it is **ORDERED** that the § 2255 motion is **DENIED** as *Booker* and *Blakely* are not to be applied retroactively to a case on collateral review.

The clerk is **DIRECTED** to close this action.

DONE this 22nd day of February, 2005.

Sharon Lovelace Blackburn

SHARON LOVELACE BLACKBURN
UNITED STATES DISTRICT JUDGE